

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

JACOB SCHERER

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2:21cr00088

Electronic Filing

MEMORANDUM ORDER

AND NOW, this 11th day of February, 2022, upon due consideration of [36], [38] Correspondence submitted by the Probation Office on October 22, 2021, and November 18, 2021, indicating defendant has obtained a medical card for use of marijuana and has been consuming the same, and indicating that the Probation Office will continue to test defendant unless otherwise directed for such conduct as a violation of the terms of pretrial release, IT IS ORDERED that the court declines to impose a sanction or restrict defendant based on the conduct identified in [36], [38] the correspondence. Defendant has verified that he obtained a medical card 1) from a medical practitioner licensed under Pennsylvania law to prescribe the controlled substance 2) for a legitimate medical purpose – to treat severe anxiety. Thus, it appears that defendant's ongoing "use" of marijuana as a form of medical treatment facially complies with all aspects of Pennsylvania law.

The court declines to prohibit or sanction the reported conduct even though use of marijuana is a technical violation of supervision because possessing it remains a violation of federal law. The federal government has chosen not to interfere with the state providing this form of medical treatment to those who comply with state law and its accompanying regulations. And the medical benefits from the treatment should not be discounted as illicit behavior undertaken for personal thrill and/or the result of dependency behavior. Deference about such assessments should be given to those who are skilled in prescribing the treatment. Accordingly,

the court will not prohibit defendant's use of prescription marijuana provided defendant's use remains in compliance with state law and is not connected to any other unlawful activity or violation of the conditions of supervision.

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s/David Stewart Cercone
David Stewart Cercone
Senior United States District Judge

cc: Nicole Vasquez Schmitt, AUSA
Martin A. Dietz, Esquire

Jacob Scherer, PO

United States Marshal's Office
United States Probation Office

(Via CM/ECF Electronic Filing)